

Board of Adjustment

Minutes

City Council Chambers, Lower Level May 6, 2015

Board Members Present:

Trent Montague – Chair
Mark Freeman - Vice Chairman
Wade Swanson
Tyler Stradling
Greg Hitchens
Tony Siebers
Ken Rembold

Board Members Absent:

none

Staff Present:

Gordon Sheffield
Angelica Guevara
Wahid Alam
Kim Steadman
Lesley Davis
Lisa Davis
Kaelee Wilson
Margaret Robertson
Charlotte McDermott
Michael Gildenstern

Others Present:

Brandon McMillen
Marc Williams
Rich Myint
Razia Myint

The study session began at 4:30 p.m. The Public Hearing began at 5:32 p.m. Before adjournment at 6:19 p.m., the following items were considered and recorded.

Study Session began at 4:30 p.m.

- A. The items scheduled for the Board's Public Hearing were discussed.

Study Session adjourned at 5:23 p.m.**Public Hearing began at 5:32 p.m.**

- A. Consider Minutes from the April 1, 2015 Meeting -A motion was made by Boardmember Hitchens and seconded by Boardmember Swanson to approve the minutes. Vote: Passed 7-0
- B. Consent Agenda -A motion to approve the consent agenda as read was made by Boardmember Rembold and seconded by Boardmember Stradling. Vote: Passed 7-0

Case No.: BA15-001 **CONTINUED**

Location: 2816 and 2828 South Country Club Drive

Subject: Requesting a Special Use Permit to modify and/or remove an existing comprehensive sign plan in the LC zoning district. (PLN2014-00640).

Decision: Continuance to the June 3, 2015 Meeting

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to continue case BA15-001 to the June 3, 2015 meeting.

Case No.: BA15-006 **WITHDRAWN**

Location: 1035 West Fairway Drive

Subject: Requesting a Variance to allow a detached garage to encroach into the required side and rear yard in the RS-9 zoning district. (PLN2015-00060)

Decision: Withdrawn by Applicant

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to withdraw case BA15-006.

Case No.: BA15-011 **APPROVED WITH CONDITIONS**

Location: 6840 East Madero Avenue

Subject: Requesting a Special Use Permit to allow a wireless communications facility to exceed the maximum height allowed in the LC zoning district. (PLN2015-00110)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to approve case BA15-011 with the following conditions:

1. *Compliance with the submitted narrative, site plans and elevations dated February 26, 2015, except as modified by the following conditions.*
2. *The wireless communication facility shall utilize a monopalm design with a maximum height of fifty five-feet (55') measured to the top of the palm canopy and 46' forty six feet to the RAD center of the antenna array.*
3. *The wireless communication facility shall utilize a Faux Date Palm design with a minimum of 65 palm fronds and a "pineapple" design.*
4. *The palm fronds shall be a minimum of eleven-feet (11') in length.*
5. *The wireless communication pole shall resemble a palm tree trunk with date palm bark cladding material applied or painted on the pole.*
6. *The antenna array stand-off shall not exceed two foot-six inches (2'-6") maximum from the pole.*
7. *The antenna array for each sector shall not exceed an overall width of eight feet-six inches (8'-6").*
8. *The antennas shall not exceed 1' wide x 7" deep x 8' in length with four antennas per sector.*
9. *All antennas, mounting hardware, RRH, and other equipment near the antennas shall be painted to match the color of the faux palm fronds.*
10. *The support equipment shall be enclosed within two of the self-storage units.*
11. *The operator of the monopalm shall respond to and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
12. *Provide a permanent, weather-proof identification sign, approximately 16-inches by 32-inches in size on the gate of the fence identifying the facility operator(s), operator's address, and 24-hour telephone number for reaching the operator or an agent authorized to provide 24/7 response to emergency situations.*
13. *Maintenance of the facility shall conform to the requirements of Zoning Ordinance Section 11-35-5.1.*
14. *No later than 90 days from the date the use is discontinued or the cessation of operations, the owner of the abandoned tower or the owner of the property on which the facilities are sited shall remove all equipment and improvements associated with the use and shall restore the*

site to its original condition as shown on the plans submitted with the original approved application. The owner or his agent shall provide written verification of the removal of the wireless communications facility within 30 days of the date the removal is completed.

15. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.

16. Replace all dead and missing landscaping in accordance with the approved landscape plan from DR96-070.

Vote: Passed (7-0)

The Board's decision is based upon the following Findings of Fact:

- A. There were no existing structures within the search area that can be used to co-locate a WCF to address the specific coverage gap.
- B. The coverage area does not have any industrial districts within the coverage area.
- C. The applicant proposed a freestanding monopalm at a height of 46' feet to the RAD center of the antennas (55-feet to top of the palm fronds).
- D. The monopalm design was the best option available to blend into the surrounding environment as any other stealth design would look out of place.
- E. The nearest WCF was located more than 1,000' away from the proposed mono-palm.
- F. The equipment shelter and generator will be screened within existing self-storage units.
- G. The proposed WCF is 155-feet from Brown Road, and 122' from the residential property to the east meeting the required separation and setbacks.
- H. The three-sector, four antennas per sector antenna array will be sufficiently camouflaged by the 65 faux-palm fronds each measuring eleven-feet (11') in length.
- I. Each antenna sector will have an overall width of eight feet- six inches (8'-6") wide and could be up to two feet- six inches (2'-6") from the pole.
- J. The WCF was proposed at the back of the buildings in an area that is screened from street view making the additional landscape material around the base of the equipment enclosure not needed.

Case No.: BA15-012 **DENIAL**

Location: 1630 North Revere

Subject: Requesting: 1) a variance to allow an encroachment into the required side yard; and 2) requesting a variance to allow a fence to exceed the maximum height allowed, both in the RS-9 zoning district. (PLN2015-00114)

Decision: DENIED

Summary: The applicants, Rich and Razia Myint, at 1630 N. Revere presented their case to the Board.

Ronald Pine, at 1638 N. Revere, spoke in opposition and clarified that he is not in opposition to the carport, only the wall, and confirmed that he would be willing to compromise if the wall were to be changed to a decorative wall.

The applicant, Mr. Myint justified building a higher wall than code allows to be used as a deterrent to crime, and reminded Mr. Pine that his shed had recently gotten broken into and that his tools had been stolen.

Mrs. Myint maintained that they didn't do anything knowingly illegal, and she thought that a permit was only needed for construction of a dwelling.

The applicant confirmed for Boardmember Rembold that the carport had been constructed by a professional, but the wall was not.

Staffmember Guevara confirmed for Chairperson Montague that technically the masonry blocks were two courses too high, but the applicant would be allowed to keep one course and still be within an allowable height with the Zoning Ordinance.

Applicant explained to the Board that his walls are measured from the ground and, with factoring in the 3 ¼" concrete base on the floor, it topped out at around 84".

Zoning Administrator Sheffield explained that the measurement is taken from the fence in feet, not inches, as masonry block doesn't always top out neatly at 72". He went on to say that if a course of block ends below 6', the wall is allowed one more course of block above it.

Staffmember Guevara confirmed for Boardmember Freeman that if the variance is granted, since the wall is over 6' in height, a structural engineer would need to seal that design, and the applicant would need to obtain a permit and an inspection for the wall.

Mr. Sheffield informed the Board that the Building Official maintains that if you construct a fence according to standard specifications created by the block manufacturer, then you meet the building code requirement.

Mr. Sheffield explained to the Board that the northern patio was allowed to encroach with a variance granted in 2003 to within 5' of the property line, within the 7' side yard on the north side of the property. The southern side yard of the property still requires a 10' setback, even with the northern side yard variance.

Mr. Sheffield explained to the Board that a potential reason a permit was not obtained to construct the carport was because certain types of pre-engineered aluminum awnings aren't required to get permits, as the Building Official has accepted the design from a structural standpoint. He went on to say that when these aluminum awnings are constructed, most companies understand proper placement, so at some point there was a misunderstanding of allowed siting on the property, but maintained that the actual structure would not need to be permitted.

Boardmember Stradling stated that he didn't support the variance. He added that he has never seen encroachments allowed on 2 sides, especially not a 70% encroachment, and even though efforts have been made to satisfy the neighbor, he was still not supportive of the variance.

Boardmember Swanson explained that he felt that the lot was not defined by special enough conditions to justify the non-compliant carport, especially when there were other options for construction. He was also not supportive of the fence, as it is overbuilt by only one course, which would be an easy remedy by the homeowner.

Boardmember Hitchens recounted that the Board has granted variances many times, but he would personally have difficulty granting one in this situation, especially when factoring in the percentage of the encroachment on the south side of the property.

Boardmember Freeman inquired that if one course of block were to be removed if it would meet the intent of an allowed fence, and not have to go through the variance process. Mr. Sheffield answered that if one course of block were to be removed, it would create a situation that would be consistent with the existing interpretation of maximum the height of a block fence.

Boardmember Hitchens made a motion to deny case BA15-012 consistent with staff findings in staff report, and Boardmember Swanson seconded the motion.

Motion: It was moved by Boardmember Hitchens seconded by Boardmember Swanson to deny Case BA15-012

Vote: Passed (6-1) (Nay-Boardmember Freeman)

The Board's decision is based upon the following Findings of Fact:

- A. The proposed lot was 15,074 s.f. in area and is the largest lot within the subdivision where lots are approximately 9,000 s.f. with RS-9 zoning.
- B. The lot was unique in shape with a narrow front and very wide rear property line.
- C. The lot does not have any significant changes in grade.
- D. The lot is surrounded by homes of similar size.
- E. The existing home is approximately 85-feet in width
- F. The addition constructed in 2003 on the north side of the home was granted a variance to allow a 2-foot encroachment into the 7-foot side yard and a 10-foot encroachment into the 25-foot rear yard. The addition increased the width of the home by approximately 24-feet.
- G. The requested encroachment for the carport and patio in to the side yard was excessive.
- H. There was sufficient area available for the lawful construction of a carport or patio in the rear yard in the area just south of the pool.
- I. Access can be provided into the rear yard through the 18-foot side yard that exists between the home and south property line.
- J. The applicant did not provide sufficient justification related to the land, which would justify the degree of the requested variance.
- K. Further, strict compliance with Code would not deprive the property of the ability to construct on the south side of the lot.
- L. The applicant did not provide sufficient justification that is related the land to justify a taller fence.

Case No.: BA15-013 **APPROVED WITH CONDITIONS**

Location: 610 West Jerome Avenue

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan in the LI-BIZ zoning district. (PLN2015-00116)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to approve case BA15-013 with the following conditions:

1. *Compliance with the Comprehensive Sign Plan submitted.*
2. *Compliance with all requirements of the Development Services Division.*

Vote: Passed (7-0)

The Board's decision is based upon the following Findings of Fact:

- A. The Zoning Code would allow an aggregate total of three attached signs, the applicant is proposing two attached signs. The number of signs proposed is less than is allowed by Code;
- B. The scale and placement of the two attached signs are proportional and work well with the overall architectural design of the building. The overall project is of superior design and requires a specific sign criteria tailored to meet the needs of the development. The eastern elevation abuts a large storm drainage site, and the building is located a significant distance from a major arterial
- C. No detached sign will exceed 12 feet in height or 80 square feet in sign area. The applicant proposed a monument structure that is less than 8' in height and the sign total less than 24 SF. The detached sign area and height are much less than would be allowed by Code. Based on all of the findings listed above, the additional attached sign area for the project is justified.

Case No.: BA15-014 **APPROVED WITH CONDITIONS**

Location: 1910 South Gilbert Road

Subject: Requesting: 1) a Substantial Conformance Improvement Permit to allow the redevelopment of a commercial building; and 2) a Special Use Permit to allow reduced parking, both in the LC zoning district. (PLN2015-00117)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Stradling seconded by Boardmember Freeman to approve case BA15-0014 with the following conditions:

1. *Compliance with the site plan and elevations submitted, except as modified by the conditions below.*
2. *Compliance with all landscape requirements of Chapter 33 including full counts of shrubs and trees.*
3. *Compliance with all requirements of Design Review approval (**DR15-018**).*
4. *Compliance with all requirements of Development Services in the issuance of building permits.*

Vote: Passed (6-0) (Abstain-Boardmember Siebers)

The Board's decision is based upon the following Findings of Fact:

- A. This request allowed for the construction of a 7,436 square-foot emergency medical use within an existing commercial center in the LC zoning district.
- B. The reductions to landscape setbacks were limited to two existing conditions along the north and east property lines.
- C. The proposed Foundation Base areas approached compliance to the greatest degree practicable.
- D. The proposed development is in substantial conformance with current code.
- E. Full compliance with current Code development standards would require significant demolition of existing improvements.
- F. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

Case No.: BA15-015 **CONTINUED**

Location: 2222 East Main Street

Subject: Requesting: 1) a Variance to allow a fence to exceed the maximum height permitted; 2) an interpretation of the term “electric fence” as found in Section 8-6-3(l)1 related to Prohibited Public Nuisances; 3) the provisions related to “determining setbacks for yards” as found in Section 11-2-3(l); 4) the provisions related to “maximum height of fences and freestanding walls” as found in Section 11-30-4(B); and 5) an interpretation of the defined term “adjoining” as found in Chapter 87 of the Mesa Zoning Ordinance, all in the GC district. (PLN2015-00120)

Decision: Continuance to the June 3, 2015 Meeting

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to continue case BA15-015.

Vote: Passed (7-0)

Case No.: BA15-016 **APPROVED WITH CONDITIONS**

Location: The 1900 block of East Brown Road (south side)

Subject: Requesting a Special Use Permit to modify an existing Comprehensive Sign Plan in the LC zoning district. (PLN2015-00121)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to approve case BA15-016 with the following conditions:

1. *Compliance with sign plan submitted, except as modified by these conditions.*
2. *Attached signage for in-line retail tenants are subject to the requirements of the City of Mesa Sign Ordinance.*
3. *Compliance with all requirements of Development Services in the issuance of sign permits.*

Vote: Passed (7-0)

The Board's decision is based upon the following Findings of Fact:

- A. The proposed modification to the CSP did not include detached signs. Detached signs must be in conformance with the previously approved CSP for this site.
- B. The previously approved comprehensive sign plan identified that the attached signage would be in conformance with the criteria established in the City of Mesa Sign Ordinance, and specified those requirements as they existed in 1984. The City of Mesa Sign Ordinance has since been modified.
- C. The proposed modification to the CSP includes only the attached signage for the shop tenants.
- D. The proposed modification to the CSP, identified that the shop tenants would install signage that is within the limits of the current City of Mesa Sign Ordinance as it relates to the area of signage allowed, the maximum horizontal length of a sign on a tenant space, the number of signs allowed.
- E. There are two existing businesses within the shopping center that already have two attached signs for their single business, which is in disagreement with the previously approved CSP (BA84-054).
- F. The shopping center has gone through some minor modifications, which included some architectural changes to the buildings that expanded some of the parapet walls, creating larger sign areas.
- G. The proposed signage identified for those areas are proportional to the dimensions of the parapet.
- H. The proposed modifications to the CSP, with staff recommended conditions of approval, are compatible with the existing development as well as surrounding properties, and it is not detrimental to adjacent development.

Case No.: BA15-017 **APPROVED WITH CONDITIONS**

Location: The 1200 to 1500 blocks of North Higley Road (west side)

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan in the RSL-2.5-PAD and RSL-4.5-PAD zoning districts.

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to approve case BA15-017 with the following conditions:

1. *Compliance with the Comprehensive Sign Plan submitted.*
2. *Subdivision entry signs shall not exceed 24 s.f. (each).*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of sign permits.*

Vote: Passed (7-0)

The Board's decision is based upon the following Findings of Fact:

- A. The Zoning Code would allow an aggregate total of 24 square feet of sign area for each of the five subdivisions for a total of 10 signs with 120 square feet in sign area. An aggregate total of 72 square feet of sign area is proposed with a total of three entry signs. The aggregate sign area is less than is allowed by code.
- B. The applicant proposed the residential subdivision signs to identify the two main entrances, one from Brown Road and two on Higley Road. Given the scale of the development at 80 acres, there was a need to identify the development as one large master planned community rather than five independent subdivisions. The number of signs proposed was less than would be allowed by Code, therefore the additional size of each sign for the project is justified.
- C. The scale and placement of the signage was also proportional and works well with the overall design and layout of the subdivision. If the five parcels were separated and operated independent of one another, the Zoning Code would allow seven additional signs at 12 square feet in sign area creating a lot of visual clutter along the arterial street frontages. In this case, the subdivisions have a connected street system allowing access via the two main entries on the arterial streets.
- D. The Special Use Permit for the Comprehensive Sign Plan is not detrimental to the surrounding properties.

Case No.: BA15-018 **CONTINUED**

Location: 60 North Gilbert Road

Subject: Requesting: 1) a Substantial Conformance Improvement Permit to allow the redevelopment of a commercial building; and 2) a Special Use Permit to allow a reduction in the minimum number of required parking spaces, both in the GC zoning district.

Decision: Continuance to the June 3, 2015 Meeting

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to continue case BA15-018.

Vote: Passed (7-0)

Case No.: BA15-019 **APPROVED WITH CONDITIONS**

Location: 6907 East Ray Road

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan in the LC zoning district. (PLN2015-00141)

Decision: Approved with Conditions

Summary: This item was on the consent agenda and was not discussed on an individual basis.

Motion: It was moved by Boardmember Rembold seconded by Boardmember Stradling to approve case BA15-019 with the following conditions:

1. *Compliance with sign plan submitted, except as modified by these conditions.*
2. *The material for the base of Sign #7, the monument sign, is to be the same metal panel system used on the main building.*
3. *Compliance with all requirements of Development Services in the issuance of sign permits.*

Vote: Passed (7-0)

The Board's decision is based upon the following Findings of Fact:

- A. The CSP included a DETACHED SIGN - Standard Sign Code would allow a 12' tall detached sign along Ray Rd. The CSP proposed detached signage that uses only 8' of this available height.
- B. The proposed CSP included SITE DIRECTIONAL SIGNS – Code limits site directional signs to 3' in height. The CSP proposes 2 directional signs at 3.5' each.
- C. The proposed CSP included ATTACHED SIGNS – This CSP identifies four (4) specific attached signs for the hotel. The total area of these signs is 298 square feet.
- D. DESIGN INTEGRATION - The CSP can be seen as a tool to promote superior design throughout a development. This CSP identified architecturally-integrated signs and specifies location, size, height, construction material, color, and type of illumination and orientation of proposed signs.
- E. The proposed CSP is compatible with the proposed hotel as well as surrounding properties, and will not be detrimental to adjacent development.
- F. The hotel exceeds 3 stories in height and needs a Comprehensive Sign Plan to allow business signs other than the name of the project or development.

OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a
Zoning Administrator